

Testimony of

Edward Skyler

**Co-chair of Mayor Bloomberg's World Trade Center Health Panel and
New York City Deputy Mayor for Administration**

**9/11 Health Effects:
Federal Monitoring and Treatment of Residents and Responders**

February 28, 2007

**Committee on Oversight and Government Reform
Subcommittee on Government Management, Organization, and Procurement
U.S. House of Representatives**

Good afternoon. My name is Edward Skyler and I am the New York City Deputy Mayor for Administration. I co-chaired Mayor Bloomberg's World Trade Center Health Panel with Deputy Mayor Linda Gibbs. I first want to echo Deputy Mayor Gibbs's thanks to you Chairman Towns, Ranking Member Brian Bilbray, and members of this Subcommittee for convening this important hearing. And I want to thank the members of the New York delegation and their staffs who have long made this issue a top priority.

Deputy Mayor Gibbs walked you through some of the key medical data, existing treatment and research programs, and the panel's core recommendations. I'm going to cover two related topics: (i) what we need from the federal government *at a minimum* to provide the direct treatment, research and information that people suffering from 9/11-related health effects need; and (ii) the urgent need for Congress to reopen the Victim Compensation Fund.

Minimum Resources Needed to Implement Panel's Recommendations

The federal government contributed substantially to New York City's economic and physical recovery from the 9/11 attacks. Mayor Bloomberg and the people of New York City are grateful for the federal government's strong support.

But federal support has been slow in coming to address the health care needs of those who responded on and after 9/11; and of the residents and other people of New York City who have remained since the attacks and have done so much to contribute to the City's resurgence. *And the aid that has come is far less than is needed.*

Based on informed, but necessarily contingent assumptions, the estimated gross annual cost to provide health care to anyone who could seek treatment for a potentially 9/11-related illness--whether through the FDNY, Mt. Sinai or Bellevue programs, or from a personal physician or any other source—is \$393 million this year. That \$393 million covers the cost to treat anyone, anywhere in the country, for a potentially 9/11-related

illness, including the thousands of responders and others who answered New York City's call from all 50 states. If you assume that that number is a reliable estimate of gross costs in each of the five years since 9/11, the total cost of 9/11 health impacts has already surpassed \$2 billion.

We estimated that the *minimum* amount of federal support needed *just* to sustain and expand existing treatment and research programs, and to implement the rest of the Panel's recommendations is \$150 million next year, increasing to \$160 million annually by FY 2011. Put another way, \$150 million is the amount needed to fill gaps in available information and treatment for 9/11-related health needs. What will that \$150 million pay for? Beginning in City FY 2008 (which begins this July) that funding would be sufficient to:

- (i) Sustain the FDNY WTC monitoring and treatment program at current levels;
- (ii) Sustain the Mt. Sinai program—which is monitoring and treating thousands of NYPD responders and other workers and volunteers who participated in WTC recovery operations;
- (iii) Sustain and expand the Bellevue program to evaluate and treat up to 12,000 patients over the next 5 years;
- (iv) Sustain and expand mental health services made available through the City's Health Department;
- (v) Expand the treatment and research capacity of the NYPD; and
- (vi) Implement the rest of the Panel's recommendations.

The health impacts of 9/11 are substantial and will be with us for years to come. Without the help of Congress and the Administration, there is a real risk that the healthcare needs of those who responded on 9/11, or who stayed in the City to help us and the nation rebuild, will go unmet. *We should work together immediately to prevent this entirely preventable outcome.*

Reopening the Victim Compensation Fund

Second, I want to talk briefly about the Panel's recommendation to re-open the Victim Compensation Fund (VCF). When Congress created the VCF in 2001, it chose a no-fault compensation program—those injured were compensated without any need to establish negligence or fault.

Those who did not meet the VCF eligibility criteria, or who did not sign-up in time, had no choice but to go the traditional litigation route. Congress worked with the City to create the WTC Captive Insurance Company to insure the City and its approximately 150 contractors—whose construction and other workers played a critical role in the WTC recovery and clean-up efforts—for claims arising from those operations. The Captive Insurance Company was funded with \$1 billion of the \$20 billion that Congress and the President made available to the City after the 9/11 attacks. But this insurance mechanism is not suited for what we are faced with today.

More than 6,000 City employees and other workers have already sued the City and its contractors—alleging harm in connection with the operations at Ground Zero. Taken together, those lawsuits allege damages that the City conservatively estimates to be in the *billions* of dollars. And we don't know who or how many people may allege that they were harmed because of 9/11 in the future. I should note that Congress capped the City's potential liability at \$350 million, but the potential liability of the contractors who participated in the WTC recovery and clean-up is not expressly capped by statute.

The Captive Insurance Company, however, cannot just hand out the \$1 billion Congress provided for insurance coverage. As with all fault-based insurance mechanisms, plaintiffs must not only show that they were harmed, but must also prove fault—and the City and its contractors have strong defenses for what was clearly a *necessary* response to a national attack. New Yorkers have always been proud of the way the City came together after 9/11, but this drawn-out and divisive litigation is undermining that unity.

The fundamental point is that compensating people who were hurt on 9/11 shouldn't be based on a legal finding of who is to blame. We know who is to blame—19 savages with box cutters. We are here today because New York City would rather stand with all those who have filed suit, rather than against them in a courtroom. At its core, re-opening the VCF is about fairness. There is no reason why people injured as a result of 9/11 should now have to go to court and prove liability. Proof of harm should be enough to receive fair and fast compensation.

Simultaneous with the re-opening the fund, it is essential that Congress eliminate any liability of the City and its contractors arising out of the WTC recovery and clean-up operations. Congress could then move the \$1 billion now available to the Captive Insurance Company to the re-opened VCF. ***Only by taking these steps can we ensure that those who were harmed by 9/11 get just compensation quickly.***

And only by taking these steps can we ensure that in the event of another terrorist attack—whether in New York, or Boston or Chicago, or ***anywhere on American soil***—the private sector will come to the country's aid as swiftly and with the same selflessness, energy and determination that was brought to bear on September 11, 2001. Re-opening the VCF and eliminating the liability of the City and its contractors is not just about providing healthcare and compensation for injury; it is necessary to guarantee our country's safety in the future.

Thank you for the opportunity to testify before you today, and we are glad to take any questions you may have.